

**PRODUCT AND INSTALLATION SALES TERMS AND CONDITIONS**

**1. ACCEPTANCE.** Our quote, acknowledgement or acceptance of your order is expressly limited to and made conditional upon your acceptance of these terms and conditions (the "Terms"). If you provide to us any preprinted terms and conditions on any purchase order or other form document, they will be without force and effect unless we agree in writing to modify these Terms or to state that these Terms will not apply. We deem material and object to and reject any terms and conditions which are additional to or different from these Terms, which we have not separately agreed to in writing (except additional provisions specifying quantity, description of the products ordered and shipping instructions). We will deem you to have waived any objection to these Terms if we have not received written notice of such objection from you within ten (10) days of the date of this quote, acknowledgement or acceptance. You will, in any event, be deemed to have agreed to all of these Terms if you accept any part of the products or installation service referenced in the quote or order. Our failure to insist on performance of or to exercise any right under these Terms shall not thereafter waive any such term, condition, right or privilege.

You acknowledge that the prices stated are predicated on the enforceability of these Terms, that the prices would be substantially higher if these Terms did not apply, and that you accept these Terms in exchange for such lower prices.

**2. LIMITED WARRANTY.** All products that we manufacture are warranted by us as set forth in the applicable product warranty that may be found at [www.masco-cabinetry.com](http://www.masco-cabinetry.com). Any products incorporated in our installation for you that is not manufactured by us, and installation labor performed by us are warranted to be free from defects in materials and workmanship for one year from the date of the installation subject to the terms below. We have no obligation to inspect or evaluate the work of other parties in any manner or aspect. No warranty is made on any other service that we may perform for you. **THIS EXPRESS WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESSED, IMPLIED OR STATUTORY, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WE WILL NOT BE RESPONSIBLE FOR ANY CONFORMITY WITH ANY STANDARDS, CODES OR REGULATIONS WHICH APPLY TO THE COMBINATION OF OUR PRODUCTS IN YOUR APPLICATION OR USE OF THE PRODUCT.** You acknowledge that you alone have determined that the products are suitable to meet your intended use. You shall be solely responsible for the correctness of the plans and specifications that you provide and shall release us and hold us harmless from any damages resulting from improper, inadequate or vague information supplied by you. This warranty is not transferable.

**3. LIMITATION OF REMEDIES.** Your sole and exclusive remedy against us for breach of warranty will be limited, at our option, to our repair or replacement of any nonconforming product or installation for which a claim is made, or to our issuance of a credit for a nonconforming product or installation in accordance with any instructions we have given you for the return of the product or otherwise. This exclusive remedy shall not be deemed to have failed of its essential purpose so long as we are willing and able to repair or replace the nonconforming product or installation and, in any event, our liability for any damages shall be limited to the contract price paid to us for the nonconforming product or installation. This Limitation of Remedies applies to you and to the current owner(s) of the project and its or their respective successors and assigns. **THIS PARAGRAPH STATES YOUR SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY AND MAY BE PLED AS A COMPLETE BAR TO ANY ACTION IN VIOLATION OF THIS CLAUSE.**

**4. LIMITATIONS ON ACTIONS AND LIABILITY.** All claims or lawsuits against us must be brought within one (1) year from the date of our installation. **WE WILL NOT BE LIABLE FOR ANY LOSS, DAMAGE OR INJURY RESULTING FROM ANY FAILURE TO PERFORM THAT IS DUE TO CIRCUMSTANCES BEYOND OUR CONTROL. OUR MAXIMUM LIABILITY, IF ANY, FOR ALL DAMAGES, INCLUDING WITHOUT LIMITATION CONTRACT DAMAGES AND DAMAGES FOR INJURIES TO PERSONS OR PROPERTY, WHETHER ARISING FROM OUR BREACH OF THIS AGREEMENT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT WITH RESPECT TO THE PRODUCTS OR ANY INSTALLATION IN CONNECTION WITH THE PRODUCTS, IS LIMITED TO AN AMOUNT NOT TO EXCEED THE CONTRACT PRICE OF THE PRODUCTS AND INSTALLATION. IN NO EVENT SHALL WE BE LIABLE TO YOU FOR ANY INCIDENTAL, LIQUIDATED, CONSEQUENTIAL, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST REVENUES AND PROFITS, OR ATTORNEYS' FEES OR COSTS, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE RIGHT TO RECOVER DAMAGES WITHIN THE LIMITATIONS SPECIFIED IS YOUR EXCLUSIVE ALTERNATIVE REMEDY IN THE EVENT THAT ANY OTHER REMEDY UNDER THESE TERMS FAILS OF ITS ESSENTIAL PURPOSE.**

**5. INSURANCE.** We will maintain workers' compensation (employer liability) coverage as required by law and \$1,000,000 in general liability insurance while performing installations for you. We reserve the right to be self-insured to the extent allowed by applicable law. We do not agree to name any other person or entity as additional insured or as additional named insured. Any different insurance requirements will be subject to additional charges.

**6. PAYMENT, PRICES AND TERMS.** Prices, terms and product specifications, including the Terms, are subject to change without advance notice. All prices are net 30; and no cash discounts, back charges, setoffs, retention or counterclaims are allowed without our prior written agreement. In addition to the price specified, you are responsible for any federal, state, provincial or local excise, use, occupational, or other tax, duty or assessment now in force or to be enacted in the future, assessed against us or you by reason of your order. The price to be paid by you shall be that price in effect at the time of installation.

**7. SHIPMENTS.** Unless we agree otherwise in writing, shipments shall be by a carrier and by the route selected by us, and all shipments within the United States and Canada shall be made F.O.B. destination; provided that, we shall retain, and you hereby grant to us a security interest in any products we ship to you until the full contract price is paid by you.

**8. DELIVERIES.** The promised delivery date is our best estimate of when the products will be shipped. We may charge you a fee plus our actual expenses if the job site is not ready for our installation on the date you specify. You agree to receive, store and protect the products and related materials from damage or loss and provide us, free of charge, with reasonable use of light, heat, water, power, storage space and use of available elevators and hoists as needed.

**9. INSPECTION AND NOTICE OF CLAIM.** You shall (i) inspect all installations and products within one (1) business day following the installation; (ii) give us written notice of any claimed damage, defect or nonconformity of the product or installation within one (1) business day after your inspection; (iii) notify us within one (1) business day after your receipt of any claim from a third party related to our products or installation; and (iv) allow us the opportunity to inspect the product within thirty (30) days after our receipt of the notice. Any claim not reported to us within one (1) business day after your inspection or one (1)

business day after your receipt of the notice of a claim shall be waived. Except as otherwise agreed to in writing by us, you have no right to return products for credit, cancel existing orders, or delay acceptance of delivery.

**10. INFRINGEMENT CLAIMS.** You will indemnify, hold harmless and defend us and our affiliates against all claims, loss, damage or expenses, including attorneys' fees, arising from any actual or alleged infringement of a patent or other proprietary rights on products manufactured in accordance with your specifications, designs or instructions. You will not assert any claim against us by reason of our use of any information that you disclose to us and any reports or documents you create with respect to the design or manufacture of products or installation to be rendered.

**11. EXCUSE OF PERFORMANCE.** We will not be liable for any delay in delivery, non-delivery, failures or default in performance of the order or otherwise, in whole or in part, caused by the occurrence of any contingency beyond our control or the control of our suppliers, including but not limited to failure or delay in transportation, acts of any government or any agency or subdivision thereof, judicial action, labor disputes, fire, accident, or acts of nature, severe weather, product allocation or shortages, shortage of labor, fuel, raw material or machinery or technical failure. If any contingency occurs, we may allocate production, deliveries and performance of installation services, if any, among our customers, or, with respect to products, substitute substantially similar materials, in our sole discretion, without liability for doing so.

**12. CREDIT APPROVAL.** We, in our sole discretion, may establish a credit limit for you if you so request. You will furnish to us all financial information reasonably requested from time to time for the purpose of establishing or continuing your credit limit. Shipment and delivery of products and performance of installation will at all times be subject to the approval of our credit department, and we may at any time decline to ship or deliver products or perform any installation except upon receipt of payment or upon terms and conditions or security satisfactory to us. You hereby authorize us to investigate your credit and references.

**13. CANCELLATION AND CHANGES.** You may only cancel or change an order with our written approval. Approved cancellations or modifications will be subject to additional fees and charges.

**14. DEFAULT.** Any claim of default against us is conditioned upon (i) our receipt of written notice from you specifying the default, (ii) inexcusability of the default under any provision of the Terms, and (iii) our failure to remedy the default within thirty (30) days (or such longer period as may be reasonable under the circumstances) after our receipt of the notice of default. In the event that you are entitled to terminate the order for our default, you will be obligated to pay us for all work performed up to the effective date of such termination

**15. NO ASSIGNMENT.** You may not assign to an affiliate or other third party any quote or order for products or installation, or any claim related to our products or installation or the Terms.

**16. PROPRIETARY INFORMATION.** You do not and will not acquire ownership or any rights in any of our patents, copyrights, trade secrets, technical data, know-how, processes, inventions, improvements, business plans or policies ("Proprietary Information") under any order, regardless of when such Proprietary Information may be or have been issued, conceived, generated or acquired. You will treat our Proprietary Information as confidential and, except as authorized in writing by us, you will not use, reproduce or disclose it to third parties and will use best efforts to prevent its unauthorized use, reproduction or disclosure. Proprietary Information shall not include information already known by you or legitimately disclosed to you by a third party or otherwise legitimately in the public domain.

**17. OUR REMEDIES.** We reserve the following rights and remedies, which shall be cumulative and additional to all other remedies provided by law or equity. Interest on all past-due accounts will accrue and will be payable to us at the lesser of 1-1/2% per month (18% per annum) or the maximum rate allowed by law. If you are in default on any order, we may, in our sole discretion and without prior notice to you, delay shipment or performance, change your payment terms, change your credit limit, refuse to accept new orders, declare any outstanding amounts immediately due and payable, and deduct from any amounts that may be due to you under any order or other arrangement between you and us or any of our affiliates the full amount of your indebtedness to us or our affiliates. We will be entitled to recover costs and attorney fees in the enforcement or defense of any rights under the Terms. Nothing stated herein waives any other rights we may have at law or in equity.

**18. PROGRAMS.** All allowances, rebates, incentives, or other amounts we offer you from time to time (collectively, "Programs") are earned and payable only if your accounts (including those of your subsidiaries and affiliates) are current with all Masco Corporation subsidiaries and affiliates. In addition, Programs are not earned or payable if the ratings issued by any agency such as Standard & Poor's, Moody's or Fitch, relating to your company, parent, subsidiaries, or affiliates are lower than investment grade quality. Any earned payment may be withheld or used in our sole discretion to satisfy any of the accounts or other obligations to a Masco Corporation subsidiary or affiliate.

**19. DISPUTES.** Except as required to protect confidential information and to obtain preliminary injunctive relief to prevent irreparable harm, in the event of any dispute or claim concerning the interpretation, construction or performance of any order or the Terms, you and we will try to resolve our differences through negotiation. If the dispute is not resolved within sixty (60) days, either you or we may demand mediation administered by the American Arbitration Association under its Commercial Mediation Procedures. You and we will share equally the fees and costs of the mediation. Any dispute or claim not settled through mediation will be finally resolved by binding arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules. The prevailing party in any arbitration will be entitled to its costs and reasonable attorney fees. You agree to submit to the exclusive jurisdiction of the state and federal courts in Ann Arbor, Michigan for all purposes in connection with the arbitration, including entry of judgment on the award of the arbitrator.

**20. INDEMNIFICATION.** Any advice, technical assistance or information that we furnish to you in connection with the sale of our products are furnished for your accommodation. You assume all liability for the proper application of such information, using your own expertise and know-how. You shall indemnify and hold us and our affiliates harmless from and against all liabilities, losses, claims, costs and expenses (including reasonable attorneys' fees) related to any claim, investigation, litigation or proceeding (whether or not we are a party) which arises or is alleged to arise from your acts or omissions under these Terms, including without limitation, your delivery of plans and specifications, or in any way with respect to our products or installation. Any existing or future obligation we may have under other agreements to indemnify you for your losses shall be limited to claims, actions or lawsuits arising out of our sole negligent acts and omissions.

**21. GOVERNING LAW.** All orders shall be construed, interpreted and the rights of the parties determined in accordance with the laws of the State of Michigan without regard to any conflict of laws provisions that might otherwise apply. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms. You agree to exercise any right or remedy in connection with these Terms exclusively in, and you agree to submit to the jurisdiction of the appropriate state or federal court in Ann Arbor, Michigan.

**22. ENTIRE AGREEMENT.** These Terms contain our entire agreement relating to the transactions covered by these Terms. These Terms may not be waived, changed, modified, extended or discharged orally but only by agreement in writing and signed by the authorized representative of the party against whom enforcement of any the waiver, change, modification, extension or discharge is sought. These Terms supersede any agreement to which the Terms are attached or incorporated by reference and all terms previously published or distributed by us. If any provision of these Terms is not enforceable, that provision shall be effective only to the extent permitted by law and all other provisions of these Terms shall remain.